

1 Steven M. Kroll, Bar No. 216196
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3 350 South Grand Avenue, Suite 2300
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5 Attorneys for Defendant
6 KNOWLEDGESTORM, INC.
7
8

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

11 JASBIR GILL, MAHMOUD
12 KEDKAD,

13 Plaintiffs,
14 v.
15 KNOWLEDGESTORM, INC., a
corporation, DOES 1through 50,
16 Defendants.

Case No.

**NOTICE OF REMOVAL OF
ACTION BY DEFENDANT
KNOWLEDGESTORM, INC.
PURSUANT TO 28 U.S.C. §§ 1441
AND 1446**

1 **TO THE HONORABLE JUDGES OF THE UNITED STATES**
 2 **DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA,**
 3 **SAN JOSE DIVISION:**

4 Defendant KnowledgeStorm, Inc. ("Defendant") files this Notice of Removal
 5 pursuant to 28 U.S.C. §§ 1441 and 1446.

6 A. **INTRODUCTION**

7 1. Plaintiffs Jasbir Gill and Mahmoud Kedkad ("Plaintiffs") filed a
 8 Complaint on July 13, 2007, in the Superior Court of the State of California,
 9 County of Santa Clara, entitled, Jasbir Gill, Mahmoud Kedkad v. KnowledgeStorm,
 10 Inc., a corporation, DOES 1 through 50, Case No. 107CV089782. True and correct
 11 copies of the Summons and Complaint are attached hereto as Exhibit "1."

12 2. Defendant was served with the Complaint via CT Corporation System
 13 on July 16, 2007, in Los Angeles, California. A true and correct copy of the CT
 14 Corporation System Service of Process Transmittal is attached hereto as Exhibit
 15 "2."

16 B. **NATURE OF THE SUIT**

17 3. Plaintiffs bring three employment tort claims against Defendant for: (i)
 18 Racial Harassment; (ii) Retaliation; and (iii) Termination in Violation of Public
 19 Policy.

20 C. **BASIS FOR REMOVAL**

21 4. Removal is proper because this action is one which the Court has
 22 original jurisdiction under the provisions of 28 U.S.C. § 1332 and is one which may
 23 be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441(a), in that
 24 it is a civil action where the amount in controversy exceeds \$75,000, exclusive of
 25 interest and costs, and is between citizens of different states.

26 5. Plaintiff Gill was and is at all relevant times a resident of the City of
 27 Santa Clara, County of Santa Clara, State of California, as indicated in her sworn
 28 Complaint of Discrimination under the provisions of the California Fair

1 Employment and Housing Act, which is attached as an exhibit to the Complaint.

2 6. Plaintiff Kedkad was and is at all relevant times a resident of the City
 3 of Redwood City, County of San Mateo, State of California, as indicated in his
 4 sworn Complaint of Discrimination under the provisions of the California Fair
 5 Employment and Housing Act, which is attached as an exhibit to the Complaint

6 7. Plaintiffs allege that all of the conduct complained of in this action
 7 took place in the County of Santa Clara, California.

8 8. Defendant is a Delaware corporation. Defendant's principal place of
 9 business is Alpharetta, Georgia in that a substantial predominance of its corporate
 10 activity takes place in Georgia and/or Georgia is where the majority of its executive
 11 and administrative functions are performed.

12 9. Based upon the damages sought in the Complaint, the amount in
 13 controversy, excluding interest and costs, could reasonably exceed the sum of
 14 \$75,000. This calculation is supported by the amount of the economic loss
 15 allegedly owed to Plaintiffs, the emotional and physical distress allegedly suffered
 16 by Plaintiffs, the punitive damages allegedly owed to Plaintiffs, and their claim for
 17 statutory attorneys' fees. (See Exhibit "1.")

18 D. **THE NOTICE OF REMOVAL IS PROCEDURALLY CORRECT**

19 10. Defendant timely files this Notice of Removal within thirty (30) days
 20 of being served with the Complaint, as required by 28 U.S.C. § 1446(b).

21 11. Defendant has attached to this Notice, all pleadings, process, orders,
 22 and all other filings in the state court action, as required by 28 U.S.C. § 1446(a). A
 23 true and correct copy of the Answer served upon Plaintiffs and filed by Defendant
 24 on August 9, 2007, is attached hereto as Exhibit "3." (See Exhibits "1," "2," &
 25 "3.")

26 12. Venue is proper in this District under 28 U.S.C. § 1441(a) because this
 27 District and Division embrace the place in which the removed action has been
 28 pending.

1 13. Defendant will promptly file a copy of this Notice of Removal with the
2 Clerk of the state court in which the action has been pending. A true and correct
3 copy of the Notice of Filing of Notice of Removal to be filed is attached hereto as
4 Exhibit "4."

5 WHEREFORE, in light of the foregoing, Defendant requests this Court to
6 remove the instant case from the Superior Court of the State of California, County
7 of Santa Clara, to the United States District Court for the Northern District of
8 California, San Jose Division.

9
10 Dated: August 8, 2007

FORD & HARRISON LLP

11
12 By: Steven M. Kroll
13 Steven M. Kroll
14 Attorneys for Defendant
 KNOWLEDGESTORM, INC.

1.14
1.30

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
KNOWLEDGESTORM INC., A CORPORATION, DOES 1
THROUGH 50

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
JASBIR GILL, MAHMOUD KEDKAD

SUM-100
(ESTA CITACION ES SOLO PARA USO DE LA CORTE)

2007 JUL 13 AM 10:14

CHIEF EXEC. CLERK/CLERK
SUPERIOR COURT OF CA
COUNTY OF SANTA CLARA
BY: L. QUACH-MARCELLINA - DEPUTY
1. QUACH-MARCELLINA

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/eehelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

SANTA CLARA COUNTY SUPERIOR COURT
191 N. First St., San Jose, CA 95113

CASE NUMBER
(Número de caso)

107C V089782

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Brian S. Kreger

160 W. Santa Clara St., Suite 1050 San Jose, CA 95113, 408-999-0300

DATE:
(Fecha)

Clerk, by
(Secretario)

Kiri Torre
L. QUACH-MARCELLINA
Deputy
(Adjunto)

(For proof of service of this summons, see Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify): *Knowledgestorm, Inc., A Corporation*

under: CCP 416.10 (corporation)
 CCP 416.20 (defunct corporation)
 CCP 416.40 (association or partnership)
 other (specify):

CCP 416.60 (minor)
 CCP 418.70 (conservatee)
 CCP 416.90 (authorized person)

4. by personal delivery on (date):

1 BRIAN S. KREGER, State Bar No. 106707
2 LAMBERTO & KREGER
3 160 W. Santa Clara St., Suite 1050
4 San Jose, CA 95113
5 Telephone: (408) 999-0300
6 Facsimile: (408) 999-0301
7 Attorneys for Plaintiffs

(ENDORSED)

2007 JUL 13 AM 10:14

CHIEF CLERK / CLERK
SUPERIOR COURT OF CA
COUNTY OF SANTA CLARA
37 DEPUTY

1. COMPLAINT FOR RACIAL HARASSMENT, RACIAL DISCRIMINATION, RETALIATION

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
9

10 JASBIR GILL, MAHMOUD KEDKAD,

Case No. 107CV089782

11 Plaintiffs,

12 vs.

13 KNOWLEDGESTORM, INC. a corporation,
14 DOES 1 THROUGH 50,

15 Defendants.

COMPLAINT FOR RACIAL
HARASSMENT, RACIAL
DISCRIMINATION, RETALIATION

REQUEST FOR JURY TRIAL

16

17 DEMAND EXCEEDS \$10,000

18 Plaintiffs allege as follows:

19 1. Plaintiffs are informed and believe and thereon allege that
20 defendants are employers and corporations doing business in the County of
21 Santa Clara, State of California.

22 2. The true names and capacity of defendants named herein as Does 1
23 through 20 inclusive, whether individual, corporate, associate or otherwise, are
24 unknown to plaintiffs who therefore sue such defendants by fictitious names
25 pursuant to California Code of Civil Procedures § 474. Plaintiffs will amend this
26 complaint to show the true names and capacities when they have been
27 determined.

28
Complaint for Damages

1 3. At all times relevant herein, plaintiffs were employed by defendants.
2 4. Defendants are subject to suit under the California Fair Employment
3 and Housing Act, Government Code § 12900 et seq. and defendants are
4 employers who regularly employs five or more persons. Plaintiffs have
5 complied with all claims or requirements for filing a suit for sexual and racial
6 harassment and have received right to sue letters concerning their allegations of
7 racial harassment by defendants.

8 **FIRST CAUSE OF ACTION**

9 **RACIAL HARASSMENT**

10 5. Plaintiffs incorporate paragraphs 1 through 4 of the complaint as if
11 fully set forth herein. Plaintiffs were subjected to a hostile work environment
12 which was severe and pervasive based upon racial and national origin
13 harassment which included comments and slurs beginning in December 2006,
14 including the following as set forth below.

15 6. Joe Brown, plaintiffs' supervisor, and an employee of defendant,
16 stated to another employee, regarding plaintiff Kedkad, "What do you think of
17 the camel jockey working for KnowledgeStorm. Why don't you take the swat
18 out on him so he will start making some calls."

19 7. The week of January 15, 2007, Joe Brown ridiculed plaintiff Kedkad
20 and said "Why are you dressed like this, this is not the Middle East."

21 8. The week of January 15, 2007, Joe Brown said to plaintiff Gill, "Is
22 that what they teach in India, you need to learn the right way which is the
23 white man's way."

24 9. On January 31, 2007, after a face to face meeting with a business
25 prospect, plaintiff Kedkad spoke to a supervisor, Jason Hoback about the racial
26 slurs he had overheard Joe Brown say to employee Joe Neidenberger. His
27 response was, "Joe Brown is inexperienced in management and might have
28 said things that he did not mean. Please bear with us for the next few months.

1 We will give you big accounts and you will make a lot of money if you don't
2 repeat this to anyone."

3 10. On January 31, 2007, plaintiff Gill spoke to the same supervisor
4 about the racial slurs, discrimination and harassment but did nothing. He said
5 that she was just over reacting.

6 11. On February 21, 2007, plaintiff was not invited to a business dinner
7 by Joe Brown in which the entire Western region was invited. Jokes were made
8 that plaintiff's would not be invited to meetings in San Francisco as they would
9 scope out terrorist targets.

10 12. On February 21, 2007 Joe Brown commented to plaintiff Kedkad that
11 he hated Indians as they were taking all the jobs. Joe Brown asked him if he
12 had heard from plaintiff Gill who was on vacation in India. Joe Brown said that
13 maybe she won't come back and anyways there are too many Indians here who
14 are taking away the jobs and that he hated these Indians.

15 13. The week of March 19, 2007, Joe Brown called plaintiff Gill and
16 shouted at her and in a very threatening voice asked her if she was leaving or
17 staying. He said that she better tell him or he would make it very difficult for
18 her to do her job.

19 14. On March 21, 2007, plaintiff Kedkad spoke to supervisor Jason
20 Hoback on the phone and reiterated the racial slurs and discrimination meted
21 out to him and Ms. Gill from Joe Brown.

22 15. On March 22, 2007 plaintiff Gill spoke to supervisor Jason Hoback
23 on the phone and told him about the racial slurs from Joe Brown and his
24 threatening voice and harassment. However, Mr. Hoback did nothing and stated
25 that plaintiffs should hang in there and be supportive of the management.

26 16. The week of March 26, 2007, Joe Brown said in front of plaintiff
27 Gill, "All Muslims are terrorists".

28 17. In March 28, 2007, after a joint meeting with a business prospect,

1 Joe Brown said to plaintiff Kedkad, "You should go back to school so you can
2 learn to read, write and talk normal, like us."

3 18. On April 3, 2007 plaintiffs had a telephone conversation with Jason
4 Hoback. Plaintiffs asked him about the contract that he had promised them and
5 asked him about the contracts and raises given to other employees and even
6 the ones that were leaving. Also they told him about the recent racial slurs and
7 discrimination from Joe Brown. Jason Hoback became very angry with them
8 and threatened plaintiffs and said that he would fire them for creating trouble.
9 Plaintiff heard that they were referred to as "sand niggers." Joe Brown made
10 these racial comments and threats to plaintiffs with the intent of harassing,
11 intimidating and interfering with plaintiffs' ability to perform their job duties.

12 19. Defendants further demanded, and plaintiff's refused, to commit
13 fraudulent acts including falsifying start dates and inflate proposals in an effort
14 to defraud potential buyers.

15 20. On April 12, 2007, defendant fired plaintiff based upon her race,
16 national origin and in retaliation for complaining of racial harassment.

17 21. The foregoing acts of defendants were outrageous and did in fact
18 cause plaintiffs to suffer severe emotional distress. As a proximate result of
19 said conduct, plaintiffs suffered embarrassment, anxiety, humiliation, emotional
20 distress, and will continue to suffer said emotional distress in an amount in
21 excess of the minimum jurisdiction of this court, the precise amount of which
22 will be proven at the time of trial.

23 22. Defendants committed the acts alleged herein maliciously,
24 fraudulently, and oppressively, with the wrongful intention of injuring plaintiffs
25 amounting to malice and in conscious disregard of plaintiffs' rights. Because
26 the above described conduct was carried out by managerial employees acting in
27 a despicable, deliberate intentional manner in order to injure and damage
28 plaintiffs, plaintiffs are entitled to recover punitive damages from defendants in

1 an amount according to proof.

2 Wherefore, plaintiffs pray for a judgment against defendants and each of
3 them as follows:

4

5 **SECOND CAUSE OF ACTION**

6 **RETALIATION**

7 23. Plaintiffs hereby incorporate by reference paragraphs 1 through 20
8 of this complaint as if fully set forth herein.

9 24. On April 12, 2007, in retaliation for plaintiffs' complaint of racial
10 harassment, Jason Hoback and Joe Brown called plaintiff Gill and started
11 screaming and calling her names. When she tried to ask him what had
12 happened, he falsely said was that they were firing her for "violating company
13 policy." Plaintiff Gill tried asking Joe Brown what Jason Hoback meant by that
14 and he repeated the same line and refused to identify the policy. The stated
15 reason was a pretext for the actual reason which was racial discrimination and
16 retaliation.

17 25. On April 12, 2007, Joe Brown called plaintiff Kedkad and threatened
18 him right after firing plaintiff Gill and telling him that if he kept creating trouble
19 he would be terminated as well.

20 26. On April 18, 2007, after a joint visit with a business prospect, Joe
21 Brown said to plaintiff Kedkad that he wondered what the crime rate in this
22 area must be with all the foreigners living here.

23 27. Plaintiffs were not given accounts to work on even though everyone
24 else was and it had been promised to them during their interview.
25 Plaintiffs were not given a telemarketer to set appointments for them even
26 though everybody around them had one. They were never given any inbound
27 leads as these were reserved for the Caucasians.

28 28. Plaintiffs had other employees poaching on their accounts even

1 though there was a 45 day rule and when it was brought to Joe Brown's
2 attention, nothing was done about it.

3 29. Upon receipt of a letter from an employee complaining of racial
4 harassment toward plaintiffs, defendant followed a policy of intimidation.
5 Kelly Gay, the CEO of the company along with another senior VP called plaintiff
6 Kedkad days after receiving the letter and threatened him with termination
7 based on false allegations. Defendant fabricated allegations against him and
8 falsely accused him with using vulgar language with a fellow employee. When
9 plaintiff again raised the issue of ongoing racial harassment, CEO Kelly Gay
10 denied knowing anything about it and took no action.

11 30. Thereafter, defendant embarked on a course of intimidation and non-
12 cooperation in an effort to prohibit plaintiff Kedkad from succeeding in his job
13 and attempting to force him to leave.

14 31. As a further proximate result of defendants harassment against
15 plaintiffs, as alleged above, plaintiffs have been harmed and have suffered
16 economic loss, humiliation, severe mental anguish, emotional and physical
17 distress and have been injured in mind and body in an amount according to
18 proof.

19 32. The above recited actions of defendants were done with malice,
20 fraud, and oppression, and in reckless disregard of plaintiffs' rights and with
21 defendants' advance knowledge of Brown's unfitness.

22 Wherefore, plaintiffs pray for judgment hereinafter set forth.

23 **THIRD CAUSE OF ACTION**

24 **TERMINATION IN VIOLATION OF PUBLIC POLICY**

25 33. Plaintiffs hereby incorporate by reference paragraphs 1 through 32
26 of this complaint as if fully set forth herein.

27 34. A substantial factor in Defendant's termination of plaintiff Gill was
28 her refusal to engage in unlawful acts including the falsifying of start dates and

Sent By: ;

07/13/2007 11:23 4082976160

770-290-8841;

Jul-18-07 11:44;

Page 13/20

COUNTY PROCESS SVC

PAGE 12/19

1 falsifying the amount of proposals to deceive prospective buyers of the
2 company.

3 35. Defendants, acting on their own and through agents and employees
4 engaged in the acts heretofore described deliberately and intentionally in order
5 to cause plaintiffs severe emotional distress; alternatively plaintiffs allege that
6 such conduct was done in reckless disregard of the probability of said conduct
7 causing her severe emotional distress.

8 36. The foregoing acts of defendants were outrageous and did in fact
9 cause plaintiffs to suffer severe emotional distress. As a proximate result of
10 said conduct, plaintiffs suffered embarrassment, anxiety, humiliation, emotional
11 distress, and will continue to suffer said emotional distress in an amount in
12 excess of the minimum jurisdiction of this court, the precise amount of which
13 will be proven at the time of trial.

14 37. Defendants committed the acts alleged herein maliciously,
15 fraudulently, and oppressively, with the wrongful intention of injuring plaintiffs
16 amounting to malice and in conscious disregard of plaintiffs' rights. Because
17 the above described conduct was carried out by managerial employees acting in
18 a despicable, deliberate intentional manner in order to injure and damage
19 plaintiffs, plaintiffs are entitled to recover punitive damages from defendants in
20 an amount according to proof.

21 Wherefore, Plaintiffs pray for a judgment against defendants and each of
22 them as follows:

23 1). For compensatory damages including lost wages, lost employee
24 benefits, commissions, bonuses, vacation benefits, mental and
25 emotional distress, and other special and general damages according
26 to proof;

27 2). For an award of punitive damages;

28 3). For an award of interest including prejudgement interest at the legal

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07/13/2007 11:23 4082976160770-290-8841; Jul-18-07 11:44;
COUNTY PROCESS SVC Page 14/20
PAGE 13/19

1 rate;

2 4). For an award to plaintiffs for cost of suit incurred herein on all causes
3 of action;

4 5). For an award to plaintiffs of attorney's fee pursuant to Government
5 Code § 12940 et seq.

6 6). For an award to plaintiffs for such other and further relief as this
7 court deems just and proper.

8
9 Dated: July 12, 2007

10 LAMBERTO & KREGER

11 By: 
12 BRIAN S. KREGER
13 Attorneys for Plaintiffs14
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770-290-8841;

Jul-18-07 11:44;

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COUNTY PROCESS SVC

PAGE 14/19

STATE OF CALIFORNIA - STATE AND CONSUMER SERVICES AGENCY

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING
 2570 N. First Street, Suite 480, San Jose, CA 95131
 (408) 325-0344 TTY (800) 700-2320 Fax (408) 325-0339
www.dfeh.ca.gov

ARNOLD SCHWARZENEGGER, Governor



May 14, 2007

BRIAN KREGER
 ATTORNEY
 LAMBERTO & KREGER
 160 W SANTA CLARA STREET #1050
 SAN JOSE, CA 95113

RE: E200607G1111-00-rc
KEDKAD/KNOWLEDGESTORM

Dear BRIAN KREGER:

NOTICE OF CASE CLOSURE

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective May 11, 2007 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

Sent By: ;
07/18/2007 11:25 4082976160770-290-8841; Jul-18-07 11:45;
COUNTY PROCESS SVCPage 16/20
PAGE 15/19Notice of Case Closure
Page Two

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,

Marlene Massetti
District Administrator

cc: Case File

JOE BROWN
EEO Representative
KNOWLEDGESTORM
2520 NORTHWINDS PARKWAY #600
ALPHARETTA, GA 30004

DFEH-200-43 (06/06)

**COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACT**

*** **EMPLOYMENT** ***

DFFE# E200607-G-1111-00-rc

DFFE USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (Indicate Mr. or Ms.)

Mahmoud A. Kad Kad

TELEPHONE NUMBER (INCLUDE AREA CODES)
650-592-2214

ADDRESS

348 Meridian Dr.

San Mateo

COUNTY

COUNTY CODE

CITY/STATE/ZIP Redwood City

San Mateo

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT

AGENCY WHO DISCRIMINATED AGAINST ME:

NAME

Knowledge storm

TELEPHONE NUMBER (INCLUDE AREA CODES)
770-290-8850
DFFE USE ONLY

ADDRESS

2520 Northwinds Pkwy. Ste 600

COUNTY

COUNTY CODE

CITY/STATE/ZIP

Alpharetta, GA

30004

NO. OF EMPLOYEES/MEMBERS (if known)

Greater than 100

DATE MOST RECENT OF CONTINUING DISCRIMINATION
TOOK PLACE (month, day, and year)RESPONDENT CODE
May 2nd 2007

THE PARTICULARS ARE:

On 2 After Nov. 2006 I was

fired
 laid off
 discriminated
 harassed
 denied characteristics testing
 forced to quit

denied employment
 denied promotion
 denied transfer
 denied accommodation
 impermissible non-job-related inquiry
 other (specify) _____

denied family or medical leave
 denied pregnancy leave
 denied equal pay
 denied rights to wear pants
 denied pregnancy accommodation

by Joe Brown

Name of Person

Job Title (supervisor/manager/personnel director/etc.)

because of my:

sex
 race
 religion
 disability

national origin/ethnicity
 marital status
 sexual orientation
 association

physical disability
 mental disability
 other (specify) _____

cancer
 genetic characteristic

Circle one if filing:
 Protesting participation in
 investigation (retaliation for)

the reason given by _____

Name of Person and Job Title

Complaints of
discrimination

Was because of

(please state

what you believe

to be reason(s))

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue notice. I understand that if I want a federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the charge discriminatory act, whichever is earlier.

I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Complaint Elected Court Action."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated

5/4/07

Maz L. L. L.

COMPLAINANT'S SIGNATURE

RECEIVED

MAY 11 2007

DEPT. OF FAIR EMPLOYMENT AND
HOUSING SAN JOSE

STATE OF CALIFORNIA

Sent By: 2007-05-11 11:46 4082576160

770-290-8841;

Jul-18-07 11:46;
COUNTY PROCESS SVC

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STATE OF CALIFORNIA - STATE AND CONSUMER SERVICES AGENCY

ARNOLD SCHWARZENEGGER, Governor



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING
 2570 N. First Street, Suite 480, San Jose, CA 95131
 (408) 325-0344 TTY (800) 700-2320 Fax (408) 325-0339
 www.dfeh.ca.gov

May 14, 2007

BRIAN KREGER
 ATTORNEY
 LAMBERTO & KREGER
 160 W SANTA CLARA STREET #1060
 SAN JOSE, CA 95113

RE: E200607G1110-00-rc
GILL/KNOWLEDGESTORM

Dear BRIAN KREGER:

NOTICE OF CASE CLOSURE

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective May 11, 2007 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

Sent By: ;
07/18/2007 11:23 4082976160

770-290-8841;

Jul-18-07 11:46;

Page 19/20

COUNTY PROCESS SVC

PAGE 18/19

Notice of Case Closure
Page Two

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,



Marlene Massetti
District Administrator

cc: Case File

JOE BROWN
REGIONAL SALES MANAGER
KNOWLEDGESTORM
2520 NORTHWINDS PARKWAY #600
ALPHARETTA, GA 30004

DFEH-200-43 (06/06)

Sent By: ;
07/13/2007 11:23 4082976160

770-290-8841;

Jul-18-07 11:46;

Page 20/20

COUNTY PROCESS SVC

PAGE 19/19

* * * EMPLOYMENT * * *

COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACT

DFEH # E200607-G-1110-00-rc

DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (Indicate Mr. or Ms.)

TASBIR K GILL

TELEPHONE NUMBER (INCLUDE AREA CODE)

408-980-8829

ADDRESS

4309 WATSON CIRCLE, SANTA CLARA, CA, 95054

CITY

COUNTY CODE

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME:

NAME KNOWLEDGESTORM

TELEPHONE NUMBER (Include Area Code)

770-290-8850

ADDRESS

2520 NORTHWINDS PARKWAY, SUITE 600

CITY

COUNTY CODE

CITY/STATE/ZIP ALPHARETTA, GA

30004

NO. OF EMPLOYEES/MEMBERS (If known)

Greater than 100

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, and year)

RESPONDENT CODE

April 12th, 07

1

THE PARTICULARS ARE:

On April 12th, 2007 I was

<input checked="" type="checkbox"/> hired	<input type="checkbox"/> denied family or medical leave
<input type="checkbox"/> laid off	<input type="checkbox"/> denied pregnancy leave
<input type="checkbox"/> promoted	<input type="checkbox"/> denied equal pay
<input checked="" type="checkbox"/> harassed	<input type="checkbox"/> denied right to wear pants
<input type="checkbox"/> denied genetic characteristics testing	<input type="checkbox"/> denied pregnancy accommodation
<input type="checkbox"/> forced to quit	<input type="checkbox"/> other (specify)

by JOE BROWN / JASON HOBACK Regional Sales Manager / Director of Sales

Name of Person

Job Title (supervisor/manager/personnel director/etc.)

because of my:

<input type="checkbox"/> race	<input checked="" type="checkbox"/> national origin/ethnicity	<input type="checkbox"/> physical disability	<input type="checkbox"/> gender
<input type="checkbox"/> age	<input type="checkbox"/> marital status	<input type="checkbox"/> mental disability	<input type="checkbox"/> genetic characteristics
<input checked="" type="checkbox"/> religion	<input type="checkbox"/> sexual orientation	<input type="checkbox"/> other (specify)	<input checked="" type="checkbox"/> (Circle one) filing: Protecting/participating in investigation (retaliation for)
<input checked="" type="checkbox"/> race/color	<input type="checkbox"/> residence		

the reason given by Violation of company policy (unspecified) discrimination

Name of Person and Job Title

Was because of
[please state
what you believe
to be reason(s)]

Discrimination & retaliation

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue notice. I understand that if I want a federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act, whichever is earlier.

I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Complainant Elected Court Action."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 5/4/07

Tasbir Gill

COMPLAINANT'S SIGNATURE

At San Jose, CA

City

RECEIVED

MAY 11 2007

DEPT. OF FAIR EMPLOYMENT AND
HOUSING SAN JOSE

STATE OF CALIFORNIA

CT CORPORATION
A WoltersKluwer Company

**Service of Process
Transmittal**

07/16/2007

Log Number 512404376



TO: Michael Ewers, VP Finance
KnowledgeStorm, Inc.
2520 Northwinds Parkway, Suite 600
Alpharetta, GA, 30004-

RE: **Process Served in California**

FOR: Knowledgestorm, Inc. (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:	Jasbir Gill and Mahmoud Kedkad, Plts. vs. Knowledgestorm, Inc. etc., et al., Dfts.
DOCUMENT(S) SERVED:	Summons, Complaint(s), Notice, Letter, Attachment(s),
COURT/AGENCY:	Santa Clara County, Superior Court, CA Case # 107CV089782
NATURE OF ACTION:	Employee Litigation - Harassment - Discrimination on the basis of race
ON WHOM PROCESS WAS SERVED:	C T Corporation System, Los Angeles, CA
DATE AND HOUR OF SERVICE:	By Process Server on 07/16/2007 at 13:30
APPEARANCE OR ANSWER DUE:	Within 30 days after service - file written response // 11/20/07 at 2:15 p.m. - First Case Management Conference
ATTORNEY(S) / SENDER(S):	Brian S. Kreger Lamberto & Kreger 160 W. Santa Clara St. Suite 1050 San Jose, CA, 95113 408-999-0300
ACTION ITEMS:	SOP Papers with Transmittal, via Fed Ex 2 Day, 798219704794
SIGNED:	C T Corporation System
PER:	Dlanne Christman
ADDRESS:	818 West Seventh Street Los Angeles, CA, 90017
TELEPHONE:	213-337-4615

Page 1 of 1 / VI

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of the package only, not of its contents.

1 Steven Kroll, Bar No. 216196
2 FORD & HARRISON LLP
3 350 South Grand Avenue, Suite 2300
4 Los Angeles, CA 90071
5 Telephone: (213) 237-2400
6 Facsimile: (213) 237-2401

RECEIVED
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

2007 JUL 9 AM 11:26

7 Attorneys for Defendant
8 KNOWLEDGESTORM, INC.

RECEIVED
U.S. DISTRICT COURT
COURT OF APPEALS
FOR THE NINTH CIRCUIT
BY A. Ilas

9
10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SANTA CLARA

13
14 JASBIR GILL, MAHMOUD KEDKAD,
15 Plaintiffs,
16 v.
17 KNOWLEDGESTORM, INC., a
18 corporation, DOES 1 THROUGH 50,
19 Defendants.

20 CASE NO.: 107CV089782

21 DEFENDANT KNOWLEDGESTORM,
22 INC.'S ANSWER TO PLAINTIFFS'
23 COMPLAINT FOR DAMAGES

24 BY FAX

25 Action Filed: July 13, 2007
26 Trial Date: None

27
28 Defendant KnowledgeStorm, Inc. ("Defendant") hereby answers plaintiffs Jasbir Gill and
Mahmoud Kedkad's ("Plaintiffs") unverified complaint for damages ("Complaint") as follows:

GENERAL DENIAL

1. Pursuant to Code of Civil Procedure section 431.30, Defendant denies, both
2 generally and specifically, each and every allegation contained in the Complaint and further
3 specifically denies that Plaintiffs have suffered or will suffer any injury or damage as a result of
4 any acts or omissions by or conduct of Defendant.

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13 LA:59056.1

14 CASE No. 107CV089782

15 DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT FOR DAMAGES
16 DOCUMENT PRINTED ON RECYCLED PAPER

AFFIRMATIVE DEFENSES

Without assuming the burden of proof or persuasion, Defendant alleges that Plaintiffs' Complaint, and each cause of action alleged therein, is subject to the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE
(Failure To State A Cause Of Action)

2. As a first separate and affirmative defense, Defendant alleges that the Complaint, and each purported cause of action contained therein, fails to state sufficient facts to constitute a cause of action against Defendant.

SECOND AFFIRMATIVE DEFENSE
(Plaintiffs Caused Damage)

3. As a second separate and affirmative defense, Defendant alleges that the Complaint, and each purported cause of action contained therein, is barred because Plaintiffs' injuries, if any, were legally caused, in whole or in part, by Plaintiffs' own negligent or intentional acts or omissions.

THIRD AFFIRMATIVE DEFENSE
(No Proximate Cause)

4. As a third separate and affirmative defense, Defendant alleges that the Complaint, and each purported cause of action contained therein, is barred because any injuries or damages allegedly sustained by Plaintiffs were not the result of any acts, omissions or other conduct of Defendant.

FOURTH AFFIRMATIVE DEFENSE (Failure To Mitigate)

5. As a fourth separate and affirmative defense, Defendant alleges that Plaintiffs are barred from recovering monetary damages to the extent that they have failed to mitigate their damages, if any, as required by law.

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FIFTH AFFIRMATIVE DEFENSE (Statute Of Limitations)

6. As a fifth separate and affirmative defense, Defendant alleges that Plaintiffs' Complaint, and each purported cause of action contained therein, is barred by the applicable statute of limitations.

SIXTH AFFIRMATIVE DEFENSE (After-Acquired Evidence)

7. As a sixth separate and affirmative defense, Defendant alleges that Plaintiffs' claims and damages, if any, are barred, in whole or in part, by the doctrine of after-acquired evidence.

SEVENTH AFFIRMATIVE DEFENSE **(Laches)**

8. As a seventh separate and affirmative defense, Defendant alleges that the Complaint, and each purported cause of action contained therein, is barred by the doctrine of laches.

EIGHTH AFFIRMATIVE DEFENSE
(Offset)

9. Without conceding that any act of Defendant caused damage to Plaintiffs in any respect, Defendant is entitled to offset and recoup against any judgment that may be entered for the Plaintiffs.

NINTH AFFIRMATIVE DEFENSE **(Unclean Hands)**

10. As a ninth separate and affirmative defense, Defendant alleges that Plaintiffs' Complaint, and each purported cause of action contained therein, is barred by the doctrine of unclean hands.

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TENTH AFFIRMATIVE DEFENSE (Workers' Compensation Preemption)

11. As a tenth separate and affirmative defense, Defendant alleges that the Complaint, and each purported cause of action contained therein, is preempted by the California Workers' Compensation Act (Lab. Code, §§ 3600 *et seq.*).

ELEVENTH AFFIRMATIVE DEFENSE
(Waiver)

12. As an eleventh separate and affirmative defense, Defendant alleges that the Complaint, and each purported cause of action contained therein, is barred by the doctrine of waiver.

TWELFTH AFFIRMATIVE DEFENSE (Legitimate Business Reasons)

13. As a twelfth separate and affirmative defense, Defendant alleges that the Complaint, and each purported cause of action contained therein, is barred because Defendant's alleged conduct was a just and proper exercise of management's discretion and was undertaken for legitimate, non-discriminatory business reasons, without any intent to discriminate, harass or retaliate against Plaintiffs in any manner prohibited by the California Fair Employment and Housing Act (FEHA) (Gov. Code, §§ 12940, *et seq.*) or any other law or public policy.

THIRTEENTH AFFIRMATIVE DEFENSE (Anti-Discrimination Policies)

14. As a thirteenth separate and affirmative defense, Defendant alleges that the Complaint, and each purported cause of action contained therein, is barred because Defendant promulgated an anti-discrimination / anti-harassment policy and complaint procedure, which Plaintiffs unreasonably failed to utilize and avoid any alleged harm, and Defendant exercised reasonable care to prevent and correct promptly any harassing behavior.

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FOURTEENTH AFFIRMATIVE DEFENSE (At-Will Employment)

15. As a fourteenth separate and affirmative defense, Defendant alleges that any recovery on Plaintiffs' claims are barred because their employment had no specified and was expressly terminable at-will at any time with or without cause, pursuant to California Labor Code section 2922.

FIFTEENTH AFFIRMATIVE DEFENSE
(Mixed Motive)

16. As a fifteenth separate and affirmative defense, Defendant alleges that in the event Plaintiffs prove any wrongful acts by Defendant, the adverse employment actions about which Plaintiffs complain would have been the same even if the alleged wrongful motive played no role.

SIXTEENTH AFFIRMATIVE DEFENSE (Pre-existing Conditions or Alternative Causes)

17. As a sixteenth separate and affirmative defense, to the extent Plaintiffs suffered any symptoms of mental or emotional distress or injury, they were the result of pre-existing psychological disorders or alternative concurrent causes, and not the result of any act or omission of Defendant.

SEVENTEENTH AFFIRMATIVE DEFENSE
(Failure To Exhaust)

18. As a seventeenth separate and affirmative defense, Defendant alleges that the Complaint, and each purported cause of action contained therein, is barred because Plaintiffs failed to exhaust their administrative remedies.

RESERVATION OF RIGHTS

19. Defendant reserves its right to assert additional affirmative defenses in the event discovery reveals that additional affirmative defenses are available to Defendant.

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1 WHEREFORE, Defendant prays for judgment as follows:

2 1. That Plaintiffs take nothing by way of their Complaint;

3 2. That the Complaint be dismissed in its entirety with prejudice and judgment

4 entered in Defendant's favor;

5 3. That Defendant recover its costs of suit and reasonable attorneys' fees; and

6 4. That the Court award such other and further relief as it deems appropriate.

7 Dated: August 8, 2007

8 FORD & HARRISON LLP

9 By: Steven Kroll
10 Steven Kroll
11 Attorneys for Defendant
12 KNOWLEDGESTORM INC.

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LA:59056.1

CASE NO. 107CV089782

- 6 -

DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT FOR DAMAGES

DOCUMENT PRINTED ON RECYCLED PAPER

PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 350 South Grand Avenue, Suite 2300, Los Angeles, California 90071. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On August 9, 2007, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

DEFENDANT KNOWLEDGSTORM INC.'S ANSWER TO PLAINTIFFS' COMPLAINT FOR DAMAGES

in a sealed envelope, postage fully paid, addressed as follows:

Brian S. Kreger, Esq.
Lamberto & Kreger
160 W. Santa Clara St., Suite 1050
San Jose, CA 95113
Telephone 408-999-0300
Facsimile 408-999-0301

Counsel for Plaintiffs

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 9, 2007, at Los Angeles, California.

Martha Angel
Martha Angel

1 Steven Kroll, Bar No. 216196
2 FORD & HARRISON LLP
3 350 South Grand Avenue, Suite 2300
4 Los Angeles, CA 90071
5 Telephone: (213) 237-2400
6 Facsimile: (213) 237-2401

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8 Attorneys for Defendant
9 KNOWLEDGESTORM, INC.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

JASBIR GILL, MAHMOUD KEDKAD,

CASE NO.: 107CV089782

Plaintiffs,

NOTICE TO STATE COURT OF
REMOVAL OF ACTION BY DEFENDANT
KNOWLEDGESTORM, INC. PURSUANT
TO 28 U.S.C. §§ 1441 AND 1446

v.
KNOWLEDGESTORM, INC., a
corporation, DOES 1 THROUGH 50,

Action Filed: July 13, 2007
Trial Date: None

Defendants.

TO PLAINTIFFS JASBIR GILL AND MAHMOUD KEDKAD, THEIR ATTORNEY
OF RECORD, AND THE CLERK OF THE SUPERIOR COURT OF THE STATE OF
CALIFORNIA FOR THE COUNTY OF SANTA CLARA:

PLEASE TAKE NOTICE that on August 4, 2007, defendant KnowledgeStorm, Inc.
("Defendant") filed a Notice of Removal in the Office of the Clerk of the United States District
Court for the Northern District of California, San Jose Division, pursuant to 28 U.S.C. §§ 1441
and 1446.

A true and correct copy of Defendant's Notice of Removal, together with the exhibits
attached thereto, are attached hereto as Exhibit "A."

///

LA:59111.1

CASE NO. 107CV089782

NOTICE TO STATE COURT OF REMOVAL TO DISTRICT COURT

DOCUMENT PRINTED ON RECYCLED PAPER

1 Dated: August __, 2007

FORD & HARRISON LLP

2
3 By: St - M. Kroll

4 Steven Kroll
5 Attorneys for Defendant
6 KNOWLEDGESTORM, INC.
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CASE NO. 107CV089782

- 2 -

NOTICE TO STATE COURT OF REMOVAL TO DISTRICT COURT

DOCUMENT PRINTED ON RECYCLED PAPER

PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 350 South Grand Avenue, Suite 2300, Los Angeles, California 90071. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On August 9, 2007, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

**NOTICE OF REMOVAL OF ACTION BY DEFENDANT
KNOWLEDGESTORM, INC. PURSUANT TO
PURSUANT TO 28 U.S.C. §§ 1441 AND 1446**

in a sealed envelope, postage fully paid, addressed as follows:

Brian S. Kreger, Esq.
Lamberto & Kreger
160 W. Santa Clara St., Suite 1050
San Jose, CA 95113
Tel: 408-999-0300
Fax: 408-999-0301

Counsel for Plaintiffs

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the above is true and correct.

Executed on August 9, 2007, at Los Angeles, California.

Martha E. Angel
Martha E. Angel